

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL CASE NO. 1:08cr124

UNITED STATES OF AMERICA,

vs.

CRISTIAN FERNANDO MONTERO.

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ORDER

THIS MATTER is before the Court on the Order of the Fourth Circuit Court of Appeals vacating the Defendant's conviction and remanding this case for further proceedings. [Doc. 32]. Also before the Court is the Defendant's "Motion to Dismiss the Indictment Under U.S. v. Simmons and Motion for Release" [Doc. 34]. The Government does not object to the Defendant's Motion.

In light of the Fourth Circuit's Order vacating the Defendant's conviction pursuant to United States v. Simmons, -- F.3d --, 2011 WL 3607266 (4th Cir. Aug. 17, 2011) (en banc), the Court enters the following Order.

ORDER

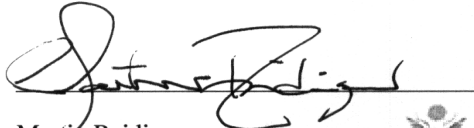
IT IS, THEREFORE, ORDERED that the Defendant's Motion [Doc. 34] is **GRANTED**, and the Indictment filed in the above-captioned case is hereby **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Defendant is hereby immediately **RELEASED** from the custody of the Bureau of Prisons.

The Clerk of Court is **DIRECTED** to provide a copy of this Order to counsel for the Government, counsel for the Defendant, and the United States Marshal's Service.

IT IS SO ORDERED.

Signed: September 21, 2011


Martin Reidinger
United States District Judge

